

United States District Court
Southern District of Texas
FILED

JUN 16 2010 Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
Houston DIVISION

David J. Bradley, Clerk of Court

Ricardo Santillan

versus

Sandy J. Gaw
HISD

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§
§
§

10 CV 2118

CIVIL ACTION NO. _____

EMPLOYMENT DISCRIMINATION COMPLAINT

1. This action is brought under Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred by Title 42 United States Code, Section § 2000e-5.

2. The Plaintiff is:

Ricardo Santillan

Address:

12035 Huffmeister rd
Apt. 814 Cypress, Tx 77429

County of Residence:

Harris

3. The defendant is:

Sandy J. Gaw (HISD)

Address:

4400 West 18th street
Houston, Texas 77092

☐ Check here if there are additional defendants. List them on a separate sheet of paper with their complete addresses.

4. The plaintiff has attached to this complaint a copy of the charges filed on March 25
2009
with the Equal Opportunity Commission.

5. On the date of 02/20/2010, the plaintiff received a Notice of Right to Sue
Post marked by U.S. Postal Service
letter issued by the Equal Employment Opportunity Commission; a copy is attached.

6. Because of the plaintiff's:

- (a) ☐ race
- (b) ☐ color
- (c) ☒ sex
- (d) ☐ religion
- (e) ☒ national origin,

☒ Disability
☒ Retaliation

the defendant has:

- (a) ☒ failed to employ the plaintiff
- (b) ☐ terminated the plaintiff's employment
- (c) ☐ failed to promote the plaintiff
- (d) ☒ other:

ADA Compliance
FMLA Compliance
HIPPA Compliance

7. When and how the defendant has discriminated against the plaintiff:

Several Times / documented / for past 2 years
knowingly of reasonable accommodations (Remain standing-up
for long periods of time (Apr - Sept 2009) Improper HIPPA
disclosures APR 26 - 2009 - OCT 8 2009 FMLA leave

8. The plaintiff requests that the defendant be ordered:

- (a) ☒ to stop discriminating against the plaintiff
- (b) ☐ to employ the plaintiff
- (c) ☒ to re-employ the plaintiff
- (d) ☐ to promote the plaintiff

Unable to be Medical Treatment
rec'd for lack of Insurance
Coverage

- (e) ☒ to Compensations entitled for my
medical treatment and lack of
proper medication during the lack of coverage and that; by
(f) ☒ the Court grant other relief, including injunctions, damages, costs and Insurance
attorney's fees.

Jantillón
(Signature of Plaintiff)

Address: 12035 Huttmeister rd
Apt #814 Cypress, Texas
Telephone: (932) 497-1582 Home
(932) 267-8852 cell

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Appendix B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
Houston DIVISION

Ricardo Santillan

versus

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CIVIL ACTION NO. _____

ORIGINAL COMPLAINT

EEOC Form 5 (5/01) Case 4:10-mc-00207 Document 1-2 Filed in TXSD on 05/19/10 Page 5 of 8

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

460-2009-02607

Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ricardo Santillan

Home Phone (Incl. Area Code)

(713) 835-5686

Date of Birth

01-20-1959

Street Address

City, State and ZIP Code

12903 Blossomheath, Cypress, TX 77429

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

H.I.S.D.

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(713) 957-7714

Street Address

City, State and ZIP Code

4400 W. 18th St., Houston, TX 77018

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE☐ COLOR☒ SEX☐ RELIGION☒ NATIONAL ORIGIN☒ RETALIATION☐ AGE☒ DISABILITY☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

08-01-2007**03-25-2009**☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I was hired by HISD in August, 2002, as a Bilingual Teacher. I was assigned to Dechaumes Elementary School. I had no problems until the 2007-2008 school year. At that time, Ms. Sandy Gaw (Asian, female) became the Principal. Since that time, I have been subjected to constant harassment and intimidation by Ms. Gaw. She has constantly monitored my classroom, to such an extent that it has interfered with my ability to teach. I was removed from a bilingual classroom, even though this was a condition of my H1B Visa status. I was also entitled to a bilingual stipend, which was discontinued when I was moved. Ms. Gaw denied me a reasonable accommodation, even though she had been instructed to provide the accommodation as required under the ADA. After I advised Ms. Gaw of my intent to take my concerns to the outside authorities, I was given an extremely negative evaluation and placed on a Intervention Plan for Teacher in Need of Assistance. This may result in my contract no being renew for the coming school year. As a result of the constant harassment, my health was adversely affected and has deteriorated.
- II. I have been an excellent teacher as reflected in the success of my students. Ms. Gaw, however, has had only negative comments to make about me. I feel that she is taking the required steps to terminate my employment.
- III. I believe that I have been discriminated against because of my national origin, Hispanic, my sex, male, my disability and in retaliation, in violation of Title VII of the Civil Rights Act of 1964, and in violation of the Americans with Disabilities Act (ADA).

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Mar 25, 2009

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I am **RONALD B. WIDEMAN** and that it is true to the best of my knowledge and belief.
SIGNATURE OF **RONALD B. WIDEMAN** September 25, 2012SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

March 25, 2009

EEOC Form 161 (11/08)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Ricardo Santillan**
12903 Blossomheath
Cypress, TX 77429

From: **Houston District Office**
1919 Smith St, 7th Floor
Houston, TX 77002



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

460-2009-02607

Joseph M. de Leon,
Enforcement Supervisor

(713) 209-3423

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

R. J. Ruff, Jr.
R.J. Ruff, Jr.,
District Director

2/11/10
 (Date Mailed)

Enclosures(s)

cc:

Josephine Morgan
Manager, EEO
HOUSTON INDEPENDENT SCHOOL DISTRICT
4400 W. 18th St.
Houston, TX 77092

TWC-Civil Rights Division
101 E. 15th St.
Room 144T
Austin, TX 78778

U.S. District Court

Federal Court Bld. 515 Rusk St. Houston TX 77002

May 19 2010

To whom it may Concern:

I am filing a Charge/Complaint of Job Discrimination and the right to sue my employer HISD and my principal Mrs Sandy J. Gaw due to unlawful acts against me. By this means I am also requesting an attorney to be provided by the federal court because of extenuating situations (leave of absence without pay for the last 8 months) or be allow to sue without legal representation. They include and not limited to what I will state but to what it may result: **Discrimination** in the nature of continuing violations of my rights as a disable person. **Retaliation** - Because I said I was going to seek a higher authority for **ADA** Compliance. - **Violations** in the order of my rights and responsibilities to the Family Medical Leave Act (FMLA). - **Improper disclosure** of my rights under **HIPPA** (Health privacy rights). Harassment - causing emotional distress and worsening my overall health conditions Intimidation-Threatening with termination of my contract. Unsafe conditions of workplace- For teachers and Students-No ADA guidelines Compliance or reasonable accommodations done in a timely manner.

I. **State**

- A. Ricardo Santillan, 12035 Huffmeister rd Apt. 814 rd Cypress Tx 77429, H (832) 497-1582 Cell (832) 267 8852 , Date of Birth 01/20/1959 ,S.S.# 644-76-0226
- B. Dechaumes Elementary, 155 Cooper rd, Houston Tx 77076 ,Houston Independent School District, 4400 West 18th Street, Houston, Tx 77092, (713) 556-7313 Fax (713) 556-7318
- C. What Happened? Described above.
- D. When (date) it happened; March 3-13 2009(most recent) Discrimination in the nature of continuing violations of my rights at least one to two years.
- E. Who caused It to Happened; Mrs Sandy J. Gaw Principal of Dechaumes Elementary.
- F. I have being working with HISD since school year 2002-2003 for 8 years.
- G. At least 50 at Campus and in the range of thousands employees at HISD.

II. **State**

I will try to be brief an objective to support my points of view. I do not want to fall in any situation where it will be my word against her word or base things solely in subjectivity. Everything that will be stated has either witnesses or has been documented. I strongly believe that when actions take place in a unilateral way there is no room for dialogue among the parties unless there is a will to do so.

Santillan

Santillan

In order to understand the nature and merits about my complaints/charges we should take into consideration my health issues chronic illnesses (visually disable) and the specific circumstances surrounding the facts. -Incidents are factual in nature.

III. State

The actions taken by Mrs Sandy J. Gaw (backed by HISD) are based on **subjectivity**, mainly **unfair** and **willful in nature**. With full Knowledge of the reasonable accommodations needed by me she purposely violate them and disclose my health issues to others with **deceit** by describing only negative, incomplete and **false statements** at times stating that I was faking it.

Because of her constant personal harassment and extenuating stress my health has worsened since then to the point of developing severe morning hypertension that can cause a sudden collapsed. I use a 4 wheel rolling walker to move around to strengthen my muscles .

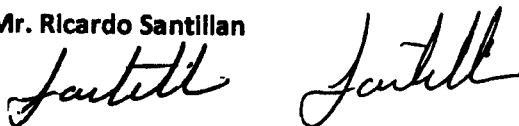
I knew that it will be at the end her word against mine so I have been waiting patiently to have written proof of her unprofessional abuse of power. Personally I do believe that "Acts speak louder than words" and sometimes are unequivocal proof of inappropriate use of authority". And nobody is above the law.

She also exercises her excess of power against Parents and other staff members who are about to retire (elderly) , handicapped or from different background ethnicity of hers. Perhaps most of them are afraid to come forward and speak due to probable retaliation. Everything I have stated is documented but I allowed time to be on my side. **Please review the merits of my complaint with a full thorough investigation.** In summary the reasons behind my assumption of personal harassment and discrimination by Mrs. Sandy J. Gaw (HISD) are the following:

- I. **Constant harassment (emotional distress).**
- II. **Intimidation Personal Threats (Termination).**
- III. **Violation of labor rights. (ADA Guidelines compliance).**
- IV. **Violation of labor rights. (FMLA Guidelines compliance).**
- V. **Violation of Privacy rights. (HIPPA Guidelines compliance).**
- VI. **Violation of my rights under HISD policies**
- VII. **Inappropriate use of authority.**

Please do not let others take away my rights. I hope that my appeal be considered as a claimed too for justice and fairness against any wrong doing also done to others.

Professionally, Mr. Ricardo Santillan

The image shows two handwritten signatures in black ink. The signature on the left is written in a cursive style and appears to read 'Santillan'. The signature on the right is also in cursive and appears to read 'Santillan'.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
HOUSTON DISTRICT OFFICE
1919 SMITH STREET - 7TH FLOOR
HOUSTON, TX 77002-8049

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

73/mel

Ricardo Santillan
12903 Blossomheath
Cypress, TX 77429

77429584715

|||||

SANT903* 773 NDE 1 B09C 40 02/20/10
NOTIFY SENDER OF NEW ADDRESS
SANTILLAN, VICTOR H
14715 KEYSTONE GREEN DR
CYPRESS TX 77429-5847
BC: 77429584715 *0133-13670-11-38